

VIRGIN ISLANDS DISTRICT COURT  
DISTRICT OF THE VIRGIN ISLANDS  
DIVISION OF ST. CROIX

ATLANTIC BASIN REFINING, INC. :Case No. 1:15-cv-00071-WAL-EAH  
Plaintiff, :  
v :  
JP ENERGY PARTNERS, L.P., :  
ARCLIGHT CAPITAL PARTNERS, :  
L.L.C. :  
Defendant. :St. Thomas, Virgin Islands  
:August 18, 2023 at 11:09 a.m.

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TRANSCRIPT OF STATUS CONFERENCE

BEFORE THE HONORABLE WILMA A. LEWIS  
MAGISTRATE JUDGE

APPEARANCES:

FOR THE PLAINTIFF

ATLANTIC BASIN  
REFINING, INC.: ANDREW C. SIMPSON, ESQ.  
GABRIEL NIETO, ESQ.  
JOSEPH KLOCK, ESQ.  
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FOR THE DEFENDANTS

JP ENERGY PARTNERS,  
L.P. and ARCLIGHT  
CAPITAL PARTNERS,  
L.L.C.: RACHEL RENEE BLITZER, ESQ.  
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1 the value of the -- the value of the confidential  
2 information. Maybe there was a narrower  
3 interpretation of that than the Court had intended  
4 because the Court was taking this sort of -- as part  
5 of the context in which the Court had been dealing.  
6 Maybe that's where the -- the disconnect has come.  
7 But that's why the Court was having problems with it  
8 and that's why the Court was going over it and going  
9 over it and thinking there's something -- there is a  
10 disconnect here someplace and that's what the Court  
11 has come up with.

12 MR. SIMPSON: And -- and given that,  
13 Your Honor, A.B.R. does withdraw from the  
14 stipulation.

15 THE COURT: Okay. Now, having had  
16 that and since one party has indicated they're  
17 withdrawing, there is no stipulation. So I guess  
18 we'll go forward from there. Now, this raises the  
19 precise issue that the parties had assumed was  
20 included in the Court's order. Maybe it's -- it's  
21 worth looking at that issue, which as I said, I'm not  
22 opining on because I need to have the positions of  
23 the parties on it. Obviously, the defense seems like  
24 you would be arguing, look, even if they're able to  
25 establish -- you know, here's what you have to

1 establish, you establish the damages, that flow.

2 This is what the law says.

3 And if they're able to -- even if  
4 they're able to establish that they think it flows  
5 from it, they're not entitled to it because it  
6 resembles this -- the types of damages that you would  
7 get if you pursued a claim that you have already said  
8 is barred. I presume that -- that might be, I don't  
9 know, that might be the defense's position. Or it  
10 could be that, you know, well, maybe these things  
11 that Atty. Simpson is claiming on behalf of the  
12 plaintiff really flows from a violation or an alleged  
13 violation of the N.D.A. They don't really flow from  
14 it. The Court shouldn't be taking into consideration  
15 these things, these types of damages because they  
16 don't properly flow from a violation even if you were  
17 to fi -- even if the -- the -- the -- the jury were  
18 to find that there is a violation of the N.D.A.

19 These types of damages clearly can be  
20 said to flow from it. That might be another  
21 position, a different position than simply because it  
22 resembles something that the Plaintiffs might have  
23 been entitled to had you not barred their claims.  
24 They can't get it. This other thing would be a  
25 different position. Those don't flow from -- though

1       you can't say that they flow from any violation of  
2       the N.D.A. That's another position. Maybe it's  
3       worthwhile to -- to have that issue adjudicated in  
4       advance so that it's clear at least whatever the --  
5       the -- the Court finds is proper or not.

6                   I mean, you are in a better position  
7       having, you know -- you, Atty. Simpson, you have your  
8       expert, Mr. Howse, who has looked at this. You've  
9       seen the expert report so you know the types of  
10      damages they're claiming. You all are in the best  
11      position to know. Well are we saying, defense, that  
12      this is clearly outside the ballpark? Because it  
13      seems to me that before there is a trial that there  
14      should be clarity as to the types of damages that the  
15      -- that the Plaintiff might be seeking if the  
16      Plaintiff were to prevail. Can they get this or not,  
17      this type of damage or not, given whatever the  
18      factual context is that we're dealing with? But I  
19      think that's an issue that remains unresolved and you  
20      all can decide how you might want to proceed with re-  
21      getting -- with regard to getting some clarity, with  
22      regard to how -- how that might play out.

23                   MR. SIMPSON: Very well. Okay.

24                   MS. BLITZER: Thank you, Your Honor.

25      You know, as to your ideas about what Defendants'

1 counsel might raise, yes, I -- I think that those are  
2 all points that we would raise along with others and  
3 would appreciate the opportunity to T this issue up  
4 for you.

5 THE COURT: Okay. And that's -- and  
6 that's fine. Like I said, you all can decide exactly  
7 how you'd like to proceed. But I do think it might  
8 be helpful since this has now come up as sort of an  
9 issue. Well, we'll get there anyway. We'll get  
10 those damages anyway because we think they're linked  
11 to a claim that the Court has said is permissible and  
12 we get those -- the same -- basically the same  
13 damages. That seems to me an issue that it would be  
14 worthwhile to -- to -- it might be worthwhile to  
15 address in advance, okay?

16 So I will -- I will leave sort of how  
17 you go forward in your capable hands. I would  
18 request, Atty. Simpson, that you put something on the  
19 record with regard to withdrawing the stipulation.  
20 And then I will be guided in terms of going forward  
21 by how the parties choose to proceed.

22 MR. SIMPSON: Very well. Thank you,  
23 Your Honor.

24 THE COURT: All right. Thank you.  
25 Anything further from the defense?